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**1994/08/00**

## CHINA'S ACCESSION TO THE GATT/WTO

### Issue

China is making political efforts to secure agreement to conclude its GATT accession negotiations by the end of 1994 in order to become a founding member of the WTO. China remains unwilling, however, to make the necessary changes to its economic and trade regime to achieve GATT/WTO compliance.

### Objectives

Although China continues to maintain that its trade regime is substantially consistent with GATT requirements, it has entered into Protocol negotiations on the basis of the Working Party Chairman's "maximalist" text. The U.S. and the major contracting parties (CPs) continue to stress the need to ensure the uniform application of China's trade regime and uniform administration of China's special economic zones as well as improved transparency of China's laws and regulations, national treatment of imports and investment and credible rights to judicial review. A second basic concern is with market access and the widespread problems, such as numerous and varied non-tariff measures, that still limit open access to China's market. The continuing U.S. objective is to secure China's GATT/WTO accession on terms that will bring it into conformity with the GATT/WTO, provide enhanced access for U.S. and other CP exporters to that market, and ensure that PRC exports generated by other than normal market forces do not disrupt other CP markets.

### Current Situation

A first "reading" and discussion of the Chairman's maximalist text of Contracting Party concerns for inclusion in a draft accession protocol was held the week of June 7, 1994. A second review, at which meeting the Chinese presented their own text, was held July 28-29, 1994. China considers the maximalist text to be "unacceptable in principle" although they have participated in discussions of the issues on the basis of that text. Although there is broad disagreement in many areas of concern, a critical problem for China appears to be the unwillingness of many of the contracting parties to accord China less-developed-country status and the special dispensations that go with that status.

In addition to the protocol, China must negotiate bilaterally with its trading partners to establish its schedule of GATT tariff concessions (bindings). The United States' list of tariff requests was presented to China the week of August 12, 1994. Bilateral negotiations on this second area of concern should begin during the week of September 12, 1994.

At this time, China continues to maintain import restrictions, including licensing requirements and quota limitations, that are in many cases still not clearly understood and frequently not made public. China continues to deny national treatment to many foreign invested enterprises by not allowing them trading rights in the domestic Chinese market. There is still arbitrary and inconsistent treatment of goods imported into China at different

points of entry and in the border areas. It is not at all clear that provincial and local governments comply with the market reforms that have been officially instituted by the Chinese central government. Also, despite a considerable amount of discussion of changes and reforms in China's foreign exchange system, it is not evident that foreign exchange is significantly more available or more accessible to importers than before the reforms.

## **CHINA'S ACCESSION TO THE GATT/WTO**

### **Talking Points**

- **If China questions U.S. "staunch" support of their accession bid:** The United States has supported, and continues to support, the entry of China into the GATT, and into the international trading community, on terms that are appropriate to China's economic and trade system and compatible with GATT principles.
- China has approached the GATT not as a centrally planned, non-market economy, but as a country whose economic and trade system is being reformed to produce a regime that can actually adopt GATT-mandated mechanisms to regulate its trade and to achieve true market access.
- However, both China and the Contracting Parties are aware that China's economic and trade system is not yet GATT compatible. A negotiated set of economic safeguards in China's protocol of accession would speed CP acceptance of China's GATT membership and accelerate China's internal reform.
- **If China raises issue of LDC treatment in GATT:** China is one of the fastest growing trading nations in the world and is internationally competitive in many industrial areas. Such a large, competitive, growing and transforming trade regime cannot be regarded as a less-developed country in its GATT relations.
- China should continue to take a constructive approach to its GATT/WTO accession negotiations, understanding that commitments to further solidify China's reforms and opening to the world serve China's economic interests as much or more than they serve those of the other GATT CPs.
- **If China questions coverage of U.S. tariff request list:** The United States has presented its GATT/WTO tariff request to China. This document was very carefully prepared. It is a reasonable and straightforward request representing U.S. trade interests and incorporating the harmonized tariff reductions agreed to in the Uruguay Round.
- The United States request for comprehensive and commercially meaningful tariff reductions reflects the continuing interest of the U.S. business community in gaining access to and competing fairly in the large and growing China market.
- **If China raises the issue of "founding" membership in the WTO:** We are aware of China's desire to complete its GATT accession negotiations by the end of 1994, in order to qualify for "founding" membership in the WTO, which was established at the April 15 Marrakesh meeting and which we expect to be implemented at the end of this year.
- Given the size, complexity and rapidly changing characteristics of China's trade regime, and the concerns of many CPs about China's ability to uniformly implement fundamental GATT obligations, we do not believe that an artificial or arbitrary deadline, such as qualifying for founding membership in the WTO, should be imposed on completion of China's accession.

GATT/WTO ACCESSION:

KEY PRC CONCERNS AND THE U.S. RESPONSE

ISSUE #1: Balance of Rights and Obligations	
PRC PROPOSAL	U.S. RESPONSE
<ul style="list-style-type: none"><li>o The Final Accession Protocol should ensure balance between the rights accorded to the PRC and the obligations it must undertake.</li></ul>	<ul style="list-style-type: none"><li>o Accession protocols do not ensure or attempt to define a "balance" of rights and obligations.</li><li>o Protocols are designed to ensure that the economic and trade system of an acceding country conform to the requirements of the GATT/WTO agreement.</li></ul>
ISSUE #2: "Resumption" of GATT Membership	
<ul style="list-style-type: none"><li>o China intends to "resume" its status as a GATT contracting party, which was "illegally" renounced in 1950 by the Republic of China (Taiwan).</li></ul>	<ul style="list-style-type: none"><li>o "Staunchly supports" China's GATT entry on terms appropriate to its economic and trade system and acceptable to GATT Contracting Parties (CPs).</li><li>o NOTE: Allowing China to "resume" its GATT membership implies that it would receive all the rights previously accorded the ROC, most notably unconditional MFN (See Issue #5).</li></ul>

### ISSUE #3: GATT\WTO Entry as an LDC

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| <ul style="list-style-type: none"> <li>o China should enter the GATT/WTO as a developing country and therefore eligible for "special and differential" treatment including allowances to protect "infant industries" and promote economic and social development using GATT Article XVIII (Balance of Payments).</li> </ul> | <ul style="list-style-type: none"> <li>o China is a relatively low-income developing country, but not uniformly. In many ways and many areas China is an industrialized country, competitive world-wide in many sectors. The PRC cannot expect GATT CPs to regard it as a low-income developing country in all regards.</li> <li>o GATT Article XVIII permits countries to undertake measures only to alleviate a balance of payments or shortage of foreign exchange reserves problem. BOP measures are not intended to justify protection of industry, infant or otherwise.</li> </ul> |
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### ISSUE #4: Tariff Negotiations

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| <ul style="list-style-type: none"> <li>o China maintains a complete, comprehensive tariff schedule which is pivotal in regulating imports and exports. It is prepared to negotiate tariff concessions consistent with its development, financial and trade needs.</li> </ul> | <ul style="list-style-type: none"> <li>o U.S. is preparing a tariffs request list of China seeking concessions on priority products, despite our misgivings concerning the pivotal role played by customs tariffs in China. NTM reductions/eliminations will be addressed in the Protocol. U.S. requests focus on our priorities, not the PRCs development, financial and trade needs.</li> </ul> |
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**ISSUE #5: Unconditional MFN Treatment**

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| <ul style="list-style-type: none"> <li>o China expects to receive unconditional MFN treatment from all CPs immediately upon entry into the GATT/WTO</li> </ul> | <ul style="list-style-type: none"> <li>o Because of Jackson-Vanik, the U.S. will not be able to accord unconditional MFN to China. Countries that apply the GATT/WTO fully to China will accord it unconditional MFN.</li> </ul> |
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**ISSUE #6: Import Prohibitions/QRs**

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| <ul style="list-style-type: none"> <li>o All parties maintaining GATT inconsistent import prohibitions or quantitative restrictions on Chinese products shall eliminate them immediately upon China's GATT/WTO entry.</li> </ul> | <ul style="list-style-type: none"> <li>o Not an issue for the U.S. Primarily involves QRs maintained by the EU.</li> <li>o In any event, accessions do not normally require concessions from CPs, but only from the acceding nation.</li> </ul> |
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**ISSUE #7: Import Prohibitions/QRs**

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| <ul style="list-style-type: none"> <li>o China reserves its right to deviate from GATT rules in implementing its agricultural development policy.</li> </ul> | <ul style="list-style-type: none"> <li>o This is a non-starter for the U.S. The PRC has recently expanded this notion to cover other, non-agricultural sectors (e.g., aircraft and autos) by the adoption of clearly GATT inconsistent trade measures. These will have to be redressed in the context of China's accession.</li> </ul> |
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**GATT/WTO ACCESSION:**

**KEY U.S. CONCERNS AND THE PRC RESPONSE**

<b>ISSUE #1: Uniform GATT/WTO Application</b>	
<b>U.S. PROPOSAL</b>	<b>PRC RESPONSE</b>
<ul style="list-style-type: none"><li>○ The PRC must apply GATT/WTO rules equally to all regions and to all products, regardless of origin.</li></ul>	<ul style="list-style-type: none"><li>○ The PRC alleges that this is its current practice; that it is willing to consider specific concerns and problems regarding equal application; but that it sees no need for such a commitment in its GATT/WTO Accession Protocol.</li></ul>
<b>ISSUE #2: Transparency</b>	
<ul style="list-style-type: none"><li>○ Information concerning trade data, regulations, administrative procedures and trade policies must be made readily available and transparent.</li></ul>	<ul style="list-style-type: none"><li>○ The PRC alleges that this is current practice; that it is willing to consider further concessions, as needed; but that it will not agree to this as a provision in its GATT/WTO Accession Protocol.</li></ul>
<b>ISSUE #3: GATT/WTO Inconsistent Trade Barriers</b>	
<ul style="list-style-type: none"><li>○ The PRC must agree to eliminate all GATT/WTO inconsistent trade barriers.</li></ul>	<ul style="list-style-type: none"><li>○ China is prepared to negotiate their elimination or, where applicable, their justification under relevant GATT/WTO Articles.</li></ul>



#### ISSUE #4: Market Reforms

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| <ul style="list-style-type: none"> <li>○ China must submit to the Accession working party its plans for implementing economic and trade reforms that will lead to a market price system, including a proposed time frame and the scope of reforms.</li> </ul> | <ul style="list-style-type: none"> <li>○ China is prepared to discuss modifications to its trade system, although it insists these are unnecessary as China is presently a "socialist market economy." China thus far refuses to include this provision in its Accession Protocol.</li> </ul> |
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#### ISSUE #5: Safeguards

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| <ul style="list-style-type: none"> <li>○ The U.S. insists that China be subjected to a special safeguard provision to protect U.S. industries from sudden import surges until such time as China adopts a price-based market system.</li> </ul> | <ul style="list-style-type: none"> <li>○ The PRC recognizes that it may ultimately be subjected by CPs to a special safeguard provision. However, it wants written assurances that the provision will expire at a date certain time.</li> </ul> |
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#### ISSUE #6: Other Issues

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| <ul style="list-style-type: none"> <li>○ The U.S. expects China to abide by all agreements negotiated as part of the recently completed UR, including agriculture, services, intellectual property rights and investment.</li> </ul> | <ul style="list-style-type: none"> <li>○ China is willing to negotiate with respect to WTO obligations, but expects special consideration on the basis of its developing country status.</li> </ul> |
| <ul style="list-style-type: none"> <li>○ The U.S. has asked China to sign onto the GATT Civil Aviation and the Government Procurement Code.</li> </ul>   | <ul style="list-style-type: none"> <li>○ The PRC has expressed a willingness to join all codes except the Civil Aviation and Government Procurement Codes.</li> </ul>                               |